

REMARKS

At first, Applicant appreciates that the Examiner had a personal interview with Applicant's representative on January 26, 2005. During the interview, the proposed amendments to the claims and the reference Townson et al. (U.S. Patent 5,888,934) were discussed. Applicant's representative pointed out the differences between the embodiments of the present invention and the Townson reference in that the present invention defines a dry method of preparing a solid herbicidal formulation of N-(phosphonomethyl)glycine salt with solid tensioactive agents, which is neither disclosed or suggested. The Examiner indicated that the proposed amendment, if filed, would overcome the rejection under 35 U.S.C. 112, second paragraph. The rejection to product claims 1 – 5 will be maintained. However, the Examiner agreed to reconsider the rejection regarding the process claims 6 – 9 in light of the differences between the present invention and the Townson reference.

In this Amendment, Applicant has cancelled Claims 1 – 5, without prejudice or disclaimer, amended Claims 6 – 9, and added new Claims 10 – 13. Claims 6 – 9 have been amended to overcome the rejection. Claims 10 – 13 have been added to specify the additional embodiments of the present invention. The support for the amendment can be found throughout the specification. It is respectfully submitted that no new matter has been introduced by the amended claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 112 SECOND PARAPGRAPH:

Claims 7 – 9 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is respectfully submitted that the rejections have been overcome by this amendment. In Claims 7 – 9, the term “further includes the steps of” has been replaced with the term “comprises sub-steps of” to clearly define the subject matter of the present invention. As indicated in the above interview, such amendment overcomes the rejection under 35 U.S.C. § 112, second paragraph.

Therefore, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 1 – 9 have been rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Townson et al. (U.S. Patent 5,888,934), hereinafter Townson.

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not obvious over the cited reference because the embodiment of the present invention as amended is significantly different from the disclosure of Townson in that the present invention define a dry method of making a solid herbicidal formulation of N-(phosphonomethyl)glycine salt with solid tensioactive agents, which is neither disclosed or suggested in the Townson reference. In fact, Townson only discloses the conventional wet method. There is no motivation or reasonable expectation of success for modification of Townson to achieve the present invention as defined.

More specifically, Claims 1 – 5 have been cancelled. The rejection to these claims is moot. Claim 6 has been amended to define a process of preparation of a solid herbicidal formulation of N-(phosphonomethyl)glycine in powder, granule or flake form, soluble or dispersible in water, comprising Glyphosate (N-(phosphonomethyl)glycine) in the form of hydrosoluble salt and 5% to 30% by weight of one or more hydrosoluble tensioactive agents, which are compatible with Glyphosate and solids at ambient

temperature of about 25 °C , said process comprising the steps of “(a)mixing N-(phosphonomethyl)glycine with an equimolar quantity of a neutralization base and between 5% and 30% by weight of the solid tensioactive agent of the dry weight of the final mixture, at 25 °C, (b) kneading or mixing the resulting formulation until the mixture is completely homogenized, and (c) processing the resulting mixture until obtaining the desired formulation, in powder, granules, or flakes.” The dependent Claims 7 – 13 includes these features by their dependency on Claim 6. The amendment is well supported by the specification, for example, the original Claim 1, Example 1 – 3, the description on page 3, lines 26 – 30 of the specification.

Applicant respectfully submits that the present invention as claimed define a dry method of preparing a solid herbicidal formulation of N-(phosphonomethyl)glycine. During the interview, the Examiner made inquiries as to the meaning of “wet base” in Example 1 – 3. It is respectfully submitted that “wet base” is a conventional way of identifying the purity of Glyphosate and it does not mean that additional water is added. For instance, in Example 1, the purity of Glyphosate has been defined with a titer of 92.6% wet base. It means that such sample includes 92.6% of pure Glyphosate and the remaining 7.4% of the weight are the quantity of impurities and water going along with the Glyphosate. The water content of Glyphosate exists as a part of the dry Glyphosate available for used in commerce and production. Usually, the impurity amounts to 5.91% and the inherent water is 1.49%. It is respectfully submitted that a person of ordinary skill in the art understands that the commercial Glyphosate used for preparing a herbal formulation contains generally about 4 to 6% of impurity and a certain minimum percentage of water to make up the 100% weight of Glyphosate. The minimum amount of water indicates that the process as defined in Claim 1 is essentially dry mixing method.

In addition, the step (a) of mixing at ambient temperature of 25°C is well supported by the specification, for example, the description on page 3, lines 26 – 30, page 4, line 13 – 14, page 5, line 6, page 6, lines 16 – 17, page 10, lines 22 – 26 and Examples 1 – 3. Because the solid tensioactive agent must be at 25°C to be solid, it is obvious that

the mixing steps are performed at the ambient temperature of about 25°C in Examples 1 – 3.

Applicant respectfully submits that Townson fails to disclose the dry method as claimed. Townson discloses a solid form of a composition consisting of glyphosate and an ethoxylated alcohol (surfactant agent). Townson only mentions the conventional wet method of making such composition (see col. 3, lines 29 – 47, 58 – 62; col. 7, lines 37 – 42, lines 48 – 51; col. 9, lines 58 – 60; col. 11, lines 49 – 50; col. 15, lines 26, 36, 45). Townson does not disclose or suggest the preparation of a solid herbicide formulation in a soluble glyphosate salt with a surfactant agent by the technique of neutralizing and dry blending used in the present invention. The description at col. 6, lines 46 – 47, lines 59 – 61 mentioned “solid compositions.” It only refers to the final product of the composition as defined in Townson, which is in solid granules or powder form for applying to plants. There is no disclosure or suggestion on how the composition is made except by the conventional wet method. Such description only deals with using the composition after it is obtained. Therefore, Townson does not provide any teaching or suggestion of the dry method as claimed.

To the contrary, the present invention as claimed define the method of preparing a solid herbicidal formulation of N-(phosphonomethyl)glycine comprising the step of mixing N-(phosphonomethyl)glycine with an equimolar quantity of a neutralization base and a solid ensioactive agent at 25 °C. These steps are not disclosed, suggested or rendered obvious by Townson.

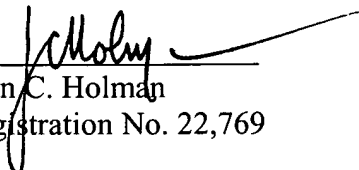
Therefore, the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejection under 35 U.S.C. § 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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